

## An Industry Consensus Has Emerged on Many Significant Questions Posed by the Commission

- No arbitrary paging channel cap should be imposed
- Market-by-market, frequency-by-frequency stopping rules are necessary to expedite the auction process
- Existing interference and service area contours should be retained (including the fixed mileage standards for 900 MHz)
- All exclusive paging channels and some shared PCP channels are appropriate candidates for Geographic Area Licensing

## The Record Supports Certain Important Refinements in the Commission's Proposal

- Permittees of nationwide PCP systems should be entitled to complete previously authorized construction and retain exclusivity without an auction
- Incumbents with preemptive geographic coverage should not have to await an auction
- Phantom MX's should be avoided by adopting carefully crafted application and upfront payment rules

## The Issues of Primary Concern to AirTouch Paging

- The size of the geographic licensing area (MTA vs. BTA)
- Flexible Partitioning Rules
- Mechanisms to avoid delay
- Additional anti-speculation safeguards
- 900 MHz contours
- Treatment of shared channels

## An MTA Licensing Scheme, Properly Crafted, Serves the Public Interest

- MTAs strike a better balance between larger and smaller systems and carriers than other geographic demarcations
- MTAs enjoyed substantial support from diverse commenters
- Well-conceived partitioning rules, and bidding consortia rules, mitigate the concern that MTAs are too big in some instances
- Delays will result from BTA licensing because there are so many of them
- BTAs are too small under current market conditions

## Flexible Partitioning Rules Serve the Public Interest

- Dead-zones can be reduced when carriers cooperate at common borders
- Continued cooperation between co-channel paging operators is encouraged
- Build-out accelerates when multiple carriers participate in construction
- Artificial conflicts are avoided
- Partitioning facilitates the smooth transition to geographic licensing
- Partitioning mitigates the concern that "one-size" does not fit all

## AirTouch Supports a Partitioning Plan Which:

- Limits eligibility to those with an existing presence in an MTA on the subject frequency
- Allows partitioning only along well recognized geographic boundaries (e.g., county lines)

AirTouch supports a quick adoption of final rules and a licensing scheme designed to minimize delay

- The Commission should award MTA licenses to carriers whose interference contours cover 66 2/3% of the population without awaiting an auction
- Separate upfront payments should be required for every channel on which bidding eligibility is sought to avoid phantom mxs:

-	MTAs 1 to 10	\$10,000
	10 to 30	\$ 5,000
	all others	\$ 2,500

- Market-by-market, frequency-by-frequency stopping rules

## Additional Anti-Speculation Safeguards are Necessary

- Add a one-year construction benchmark (10% of the population)
- Impose the "death penalty" on auction winners who fail to meet construction benchmarks
- Adopt minimum upfront payment requirements sufficient to assure a seriousness of purpose



## Technical and Policy Considerations Establish that the Proposed 21 dBu Contour Formula for 900 MHz Paging Should NOT be Adopted

- The formula is inaccurate and could result in interference
- Applying the formula to existing sites would be disruptive and burdensome
- Serious legal issues arise (retroactive rulemaking; constitutional "taking")
- The existing fixed mileage rules have served the industry well

The Broadly Licensed Shared PCP Channels (e.g., 152.48 MHz)  
Should be Subject to Exclusive Geographic Licensing:

- Many broadly licensed shared PCP channel systems are indistinguishable from other exclusive systems in terms of size, scope and services
- The FTC has raised valid concerns regarding the continuing potential for application-mill fraud on shared channels
- New licensing activity will be artificially skewed toward the shared channels
- Parity required for functionally-equivalent shared PCP channels

**CERTIFICATE OF SERVICE**

I, Yvette Omar, a legal secretary with the law firm of Paul, Hastings, Janofsky & Walker LLP, hereby certify that I have on this 9th day of April, 1997, caused a true and correct copy of the foregoing **Opposition of AirTouch Paging to the Petition of American Paging, Inc. for Partial Reconsideration** to be delivered via first class mail, U.S. postage prepaid, to the following:

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